

FEDERAL ELECTION COMMISSION WASHINGTON, D.C. 20463

James W. Best

DEC - 5. 2017

Chester, IL 62233

RE: MUR 7007

Dear Mr. Best:

On February 12, 2016, the Federal Election Commission (the "Commission") notified you of a Complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the Complaint was forwarded to you at that time.

After reviewing the allegation contained in the Complaint and other information available to the Commission, the Commission on November 7, 2017, found reason to believe that you violated 52 U.S.C. § 30116(a), a provision of the Act, by making an excessive contribution to the Kyle McCarter for Congress Committee. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Preprobable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to the Committee as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that the Committee violated the law.

Please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. See 18 U.S.C. § 1519.

If your client is interested in engaging in pre-probable cause conciliation, please contact Roy Q. Luckett, the attorney assigned to this matter, at (202) 694-1650 or rluckett@fec.gov, within seven days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. No action by the

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Commission or any person and no information derived in connection with any conciliation attempt by the Commission may be made public by the Commission without the written consent of the respondent and the Commission. 52 U.S.C. § 30109(a)(4)(B). The Commission may proceed to the next step in the enforcement process if you are not interested in pre-probable cause conciliation or a mutually acceptable conciliation agreement cannot be reached within 60 days. See 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if you are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

Pre-probable cause conciliation, extensions of time, and other enforcement procedures and options are discussed more comprehensively in the Commission's "Guidebook for Complainants and Respondents on the FEC Enforcement Process," which is available on the Commission's website at http://www.fec.gov/respondent.guide.pdf.

In the meantime, this matter will remain confidential in accordance in accordance with 52 U.S.C. § 30109(a)(4)(B) and 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies. 1

We look forward to your response.

On behalf of the Commission,

Steven T. Walther

Chairman

Enclosures
Factual and Legal Analysis

The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

MUR: 7007

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I.

RESPONDENT:

INTRODUCTION

James W. Best

This matter was generated based on a Complaint filed by Richard Stubblefield. As set forth below, the Federal Election Commission ("Commission") finds reason to believe that James W. Best violated 52 U.S.C. § 30116(a), a provision of the Federal Election Campaign Act of 1971, as amended, by making an excessive contribution.

II. FACTUAL BACKGROUND

On November 5, 2015, James W. Best made two contributions totaling \$40,000 to Kyle McCarter for Congress Committee ("Committee"), the principal campaign committee for McCarter, who sought the Republican nomination in the 15th Congressional District in Illinois in 2016. One contribution was in the amount of \$37,300 designated for the 2016 primary election, and the other was in the amount of \$2,700 designated for the 2016 general election. On January 28, 2016, the Committee refunded \$40,000 to Best. The Complaint alleges that West made an excessive contribution to the Committee with respect to his contribution for the 2016 primary election.

Best acknowledges in response to the Complaint that he made an improper contribution that the Committee refunded.1

James W. Best Resp. at 1 (July 28, 2016).

MUR 7007 (James W. Best) Factual and Legal Analysis Page 2 of 2

III. LEGAL ANALYSIS

- For the 2016 election cycle, no person was permitted to make contributions to a candidate
- 3 for federal office or his authorized political committee which in the aggregate exceeded \$2,700
- 4 for each election.²

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- The available record indicates that Best's \$37,300 contribution to the Committee
- 6 designated for the 2016 primary election exceeded the applicable contribution limit by \$34,600.
- 7 Accordingly, the Commission finds reason to believe that James W. Best violated 52 U.S.C.
- 8 § 30116(a).

² See 52 U.S.C. § 30116(a)(1)(A); 11 C.F.R. § 110.1(b)(1).